

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #12	CCRB Case #: 201901517	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 02/10/2019 9:02 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 8/10/2020	EO SOL 3/27/2021	
Date/Time CV Reported Sun, 02/10/2019 9:51 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/18/2019 12:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Mohammad Mondol	05553	964663	042 PCT
2. POF Nadeige Cothia	05545	947642	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Miguel Castillo	30291	964976	042 PCT
2. POM Wilson Rodriguez	18658	959147	042 PCT
3. SGT Joseph Duerr	01294	953830	042 PCT
4. CPT Andrew Valenzano	00000	923294	WARRSEC
5. POM Jonathon Mendes	01432	961944	042 PCT
6. POM Robert Ramos	17246	959116	042 PCT
7. POF Dili Jefferson	01283	965760	042 PCT
8. POM Diogenes Hernandez	29422	935013	042 PCT
9. POM Armando Mota	30181	963663	042 PCT
10. POF Joyalevern Mcfarland	31811	965323	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Nadeige Cothia	Abuse: Police Officer Nadeige Cothia entered § 87(2)(b), in the Bronx.	§ 87(2)(b)
B.POM Mohammad Mondol	Abuse: Police Officer Mohammad Mondol entered § 87(2)(b) in the Bronx.	§ 87(2)(b)

### Case Summary

On February 10, 2019, § 87(2)(b) filed this complaint over the phone with IAB. The complaint was received by the CCRB on February 18, 2019 under log § 87(2)(g).

On February 10, 2019 at approximately 9:02PM, § 87(2)(b) was inside her residence, located at § 87(2)(b) in the Bronx. Police Officers Nadeige Cothia and Mohammad Mondol, of the 42<sup>nd</sup> Precinct, entered § 87(2)(b)'s room (**Allegation A - Abuse of Authority:** § 87(2)(g) (**Allegation B - Abuse of Authority:** § 87(2)(g)

§ 87(2)(b) was arrested as a result of this incident and was charged with § 87(2)(b)

The investigation obtained 37 total BWC files pertaining to this incident from the following members of service assigned to the 42<sup>nd</sup> Precinct: PO Mondol, PO Cothia, PO Wilson Rodriguez, PO Miguel Castillo, Sgt. Joseph Duerr, PO Joyalevern McFarland, PO Robert Ramos, PO Jonathan Mendes, PO Dili Jefferson, Police Officer Diogenes Hernandez, and PO Armando Mota (Board Reviews 01-37, video summaries located in Board Review 38-48).

### Findings and Recommendations

#### **Allegation A-Abuse of Authority: Police Officer Nadeige Cothia entered § 87(2)(b) in the Bronx.**

In her CCRB interview, § 87(2)(b) stated that she was inside her bedroom inside of § 87(2)(b) in the Bronx at approximately 9:02PM. (Board Review 49). § 87(2)(b) began renting the room in October 2018; it is a four-bedroom apartment. § 87(2)(b) does not have an official rent agreement and does not have any paperwork stating that she does live at that apartment. § 87(2)(b) pays rent in cash to an older couple who also live in the apartment; § 87(2)(b) does not know their names but refers to them as “§ 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) have a grandchild, § 87(2)(b) who does not live in the apartment. § 87(2)(b) § 87(2)(b) and § 87(2)(b) were all inside the apartment on the night of the incident. § 87(2)(b) was with her boyfriend, § 87(2)(b) when she heard PO Cothia tell her to get dressed and to come out of her room. § 87(2)(b) opened the door and PO Cothia and PO Mondol entered her room. PO Cothia told § 87(2)(b) that he had to leave; § 87(2)(b) initially protested this but § 87(2)(b) did leave the apartment.

After § 87(2)(b) left the apartment, § 87(2)(b) stood in the living room and called 911 because she wanted to complain about the officers’ actions to IAB and because she wanted a supervisor to respond to the scene. At the same time, PO Cothia yelled out to § 87(2)(b) to come and get her dresser. § 87(2)(b) then came in the room and started rummaging through the dresser. The dresser was in § 87(2)(b)'s room before she moved in but all of the items in the dresser belonged to § 87(2)(b). § 87(2)(b) also came into the room. § 87(2)(b) initially stated that PO Cothia and PO Mondol were “helping” to vandalize § 87(2)(b)'s property but when asked how they were doing so, § 87(2)(b) said that they were allowing § 87(2)(b) to do so. § 87(2)(b) stated that PO Cothia went through her dresser drawers but then when asked questions about that, § 87(2)(b) stated that PO Cothia did not actually touch the dresser itself and that she was just overseeing § 87(2)(b). § 87(2)(b) son and his son’s girlfriend also came into the apartment while the police were there and went to § 87(2)(b)'s room and took furniture out. Sgt. Duerr arrived and told the officers that the civilians could not take § 87(2)(b)'s belongings. § 87(2)(b) acknowledged later threatening § 87(2)(b). § 87(2)(b) was subsequently arrested.

PO Cothia’s BWC footage (located in Board Review 02, summary in Board Review 39) begins at 21:32:53 on February 10, 2019. § 87(2)(b) is standing outside the door to her room and the officers are in the living room speaking with her. PO Cothia and PO Mondol both tell § 87(2)(b) that the man in her apartment must leave. At 21:36:33 in the recording, § 87(2)(b) tells PO Cothia and PO Mondol that she has lived in the apartment for more than thirty days. PO Cothia

stated that she understood this and that the officers were not kicking her out but that her guest needed to leave because the other residents of the apartment were concerned that § 87(2)(b) was engaging in prostitution. At 21:38:25 in the recording, PO Mondol tells § 87(2)(b) that he needs to speak with her guest. § 87(2)(b) responds, "He'll come out. Don't go in my room." PO Cothia tells § 87(2)(b) "As per today, you're not permitted to have any guests in this apartment." At 21:39:49 in the recording, § 87(2)(b) and § 87(2)(b) step out of her bedroom. At 21:41:25 in the recording, PO Cothia says, "Everything in that room that belongs to her (referring to § 87(2)(b) she's allowed to take that. That bed." § 87(2)(b) states that it was her bed and that she bought it. PO Cothia argues that the bed belonged to § 87(2)(b) and that she was going to take it out of the room. PO Cothia tells § 87(2)(b) that she needs to find her own bed. PO Cothia told § 87(2)(b) "Everything in there that belonged to her, she's going to take back." At 21:45:20, PO Cothia tells § 87(2)(b) "You go in that room (referring to § 87(2)(b)'s bedroom). Whatever you let her use and you don't want her to use them, take them back." § 87(2)(b) is standing in the living room and says, "Nah, that's my stuff." At 21:45:35, PO Cothia enters the room. An older male (presumably § 87(2)(b) is in the room. § 87(2)(b) tells PO Cothia that she does not want to touch § 87(2)(b)'s things, which are in the dresser. PO Cothia asks § 87(2)(b) to come into the room and get her things out of the dresser so that § 87(2)(b) could take back the dresser. § 87(2)(b) states she will not as everything in the room belonged to her. At 21:48:19 in the recording, Sgt. Duerr comes in the room and PO Cothia explained the situation.

At 22:06:08 in Sgt. Duerr's BWC footage (located in Board Review 05, summarized in Board Review 42), Sgt. Duerr explains to PO Cothia that the officers were not allowed to touch any of the furniture in § 87(2)(b)'s room because "she rented the room as is, which would include the bed, the nightstand, and everything that was in there before." Sgt. Duerr explained that if the family wanted their furniture back, they would need to take up the issue in court. The belongings were then returned to § 87(2)(b)'s room. Two hours later, § 87(2)(b) was arrested after threatening § 87(2)(b).

PO Cothia stated in her CCRB interview that she received a call for assistance at the location and that § 87(2)(b) met the officers in the lobby of the building (Board Review 50). § 87(2)(b) told the officers that § 87(2)(b) had been living in her grandmother's apartment after her uncle had allowed § 87(2)(b) to move into the room. § 87(2)(b) said that § 87(2)(b) had been moved into a room that had previously belonged to § 87(2)(b) and therefore there were things in that room that belonged to § 87(2)(b). PO Cothia told § 87(2)(b) that the officers could speak to § 87(2)(b) and help § 87(2)(b) to retrieve her possessions from the room. The officers followed § 87(2)(b) to the apartment, where they spoke to § 87(2)(b)'s grandmother, who stated that she was afraid and uncomfortable due to the multiple men § 87(2)(b) brought to the apartment. When the officers spoke to § 87(2)(b) she stated that she did not own the furniture, but that the furniture had been there when she moved in and the other tenants had allowed her to use it. § 87(2)(b) stated that she did not have to return the furniture to § 87(2)(b) because § 87(2)(b)'s uncle had told her she was allowed to use it. § 87(2)(b) never stated that the property was her own. PO Cothia entered § 87(2)(b)'s room solely to help § 87(2)(b) remove her furniture. PO Cothia did not recall whether or not § 87(2)(b) gave consent for PO Cothia to enter the room.

Patrol Guide Procedure 214-12 states that members of service should be cognizant that incidents to which they respond may be the outgrowth of a civil process and that the authority to break and enter pursuant to purely civil processes, such as repossessions, evictions, and civil commitments is given solely to the city marshal/sheriff (Board Review 51). The procedure also notes that an individual who has resided in a dwelling for thirty or more consecutive days cannot be removed from the location save through the execution of an eviction notice.

Absent consent or exigent circumstances, an officer may not make a warrantless entry into a given premises in which an individual has a legitimate expectation of privacy. People v. Rodriguez 69 N.Y.2d 159 (Board Review 52).

The police may enter a premises on the voluntary consent of a party who possesses the requisite degree of authority and control over the premises or personal property in question. Where two or more individuals share a common right of access to the premises, any one of them has the authority to consent in the absence of others. People v. Cosme 48 N.Y.2d 286 (Board Review 53).

The third-party consent exception to the Fourth Amendment warrant requirement requires the voluntary consent of a person possessing common authority over the premises, and thus, the lessor of real or personal property does not possess the requisite authority to consent to a warrantless search of the leased property. People v. Ponto 103 A.D.2d 573 (Board Review 54)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation B-Abuse of Authority: Police Officer Mohammad Mondol entered § 87(2)(b), in the Bronx.**

§ 87(2)(b) alleged that PO Mondol entered her bedroom at the same time as PO Cothia.

None of the BWC footage shows PO Mondol entering § 87(2)(b)'s room at any point.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to one other CCRB complaint, in which she was a complainant/witness.
  - § 87(2)(b)
- Police Officer Nadeige Cothia has been a member of service for eleven years and has been a subject in one other CCRB complaints and one allegations, which was not substantiated. § 87(2)(g)

- Mediation, Criminal, and Civil Histories**
- This case was not suitable for mediation.
  - As of September 27, 2019, the New York City Office of the Comptroller has no record of a notice of claim filed in regards to this incident (Board Review 55).
  - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date